

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 9-233J
)	
275.1 ACRES OF LAND, MORE OR LESS,)	
SITUATED IN STONYCREEK TOWNSHIP,)	
SOMERSET COUNTY, COMMONWEALTH)	
OF PENNSYLVANIA, AND SVONAVEC, INC.,)	
)	
Defendants.)	

AMBROSE, Chief District Judge

MEMORANDUM ORDER OF COURT

In this civil action, The Government has filed an action for condemnation, pursuant, inter alia, to 40 U.S.C. §§ 3113, 3114. The action concerns a specified tract of land for public use as a Flight 93 National Memorial. In connection with the condemnation, the Government has filed a Motion for Order of Delivery of Possession under the Declaration of Taking Act ("DTA"), or so-called "quick take" provision, of 40 U.S.C. § 3114.

The DTA's quick-take provisions authorize the government to take immediate possession of condemned property. When the government proceeds under the DTA, it files a "declaration of taking" that, among other things, states the authority for the taking, states the public use for which the land is taken, and provides an estimate of just compensation. Once the government deposits the estimate amount with the court, "to the use of the persons entitled to the compensation," title to the condemned property automatically vests in the United States.

Steckman Ridge GP, LLC v. Exclusive Natural Gas Storage Easement, No. 8-168, 2008

U.S. Dist. LEXIS 71302, at **23-24 (Sept. 19, 2008 W.D. Pa.) (footnote omitted).¹

On the filing of a declaration of taking, the court may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner. 40 U.S.C. § 3114(d). Also, on the filing of declaration of taking, and depositing the amount of estimated just compensation with the Court, title vests in the Government; the land is condemned and taken for the use of the Government; and the right to just compensation of the land vests in the persons entitled to compensation. Id. at § 3114(b)(1) - (3).

Accordingly, the Government seeks an Order, pursuant to Fed. R. Civ. P. 67 and Local Rule 67.2, permitting it to deposit the estimated just compensation of \$611,000.00 with the Clerk of Court;² it further seeks an Order, pursuant to the DTA, for delivery of possession of the land. The Government has filed all materials required by statute, including an estimate of just compensation in the amount of \$611,000.00. It seeks immediate possession in order to enable the proper administration, preservation, and development of the Flight 93 National Memorial.

Based on all appropriate considerations, the Government shall be permitted and directed to deposit just compensation with the Clerk of Court, and its Motion for Order for Delivery of Possession will be granted.

AND NOW, this 8th day of September, 2009, it is hereby ORDERED, ADJUDGED,

¹These procedures co-exist with those relating to straight condemnation. Steckman Ridge, 2008 U.S. Dist. LEXIS at *

²Fed. R. Civ. P. 71.1(j) further states that the plaintiff must deposit required monies "as a condition to the exercise of eminent domain."

and DECREED that, pursuant to Fed. R. Civ. P. 67 and Local Rule 67.2, the United States of America is permitted to deposit money with the Clerk of Court. It is further Ordered that the United States of America shall deposit into the Registry of the Court by electronic transfer the amount of \$611,000.00, which represents estimated just compensation. As soon as the business office allows, the United States of America will by electronic transfer deposit this sum into an interest-bearing account to PNC Bank, for deposit into a Business Premium Money Market Account at the rate then obtaining. In return, the Clerk is to receive an indicia of ownership showing the account title, which shall read:

United States District Court
for the Western District of Pennsylvania
Clerk of Court, Trustee
Civil Action No. 09-233J

The depository, PNC Bank, shall continue to maintain the account until further order of court and will pay to the court a percentage of all interest earned to satisfy a handling fee set by the Judicial Conference. The interest will be paid to the court when the account is closed, matures, or rolls over.

In addition, it is hereby ORDERED, ADJUDGED, and DECREED that the Government's Motion for Delivery of Possession (Docket No. [4]) is GRANTED, and upon the deposit of estimated just compensation, the right to immediate possession of the property condemned shall be vested in the United States of America, and that all persons in possession or control of the property, as described in the Declaration of Taking filed in this action, shall immediately surrender possession of said property to the extent of the estate condemned, to the United

States of America.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Donetta W. Ambrose". The signature is written in a cursive, flowing style.

/s/ Donetta W. Ambrose

Donetta W. Ambrose
Chief U.S. District Judge